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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/613,742	07/11/2000	Masayoshi Okura	046601-5053	1505

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EXAMINER

PHAN, JAMES

ART UNIT PAPER NUMBER

2872

DATE MAILED: 11/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/613,742

Applicant(s)

OKURA ET AL.

Examiner

James Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2002.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 9 and 12 is/are pending in the application.
- 4a) Of the above claim(s) 5-8, 10 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \*   c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_      6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

1. Applicant's Applicant's amendment filed 8/23/02 necessitates the following new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371 © of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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3. Claims 1-4, 9 and 12 are rejected under 35 U.S.C. 102(a) as being anticipated by Shibuya et al.

In re claims 1 and 9 Shibuya et al discloses an optical scanner which comprises a rotary deflector having a driving motor. The driving motor includes a non-rotary section (125) located at the center of rotation of the driving motor and a rotary section (103) for rotating a polygon mirror (101). The deflector further includes a mass member (124) having a center portion fixed to the top end of the non-rotary section (125), wherein a periphery of the mass member is larger than that of the non-rotary section (125). See Figs. 1 and 5.

In re claim 2 the non-rotary section (125) has been taken as a stationary shaft.

In re claim 3 this feature is inherently disclosed because, as stated above, the center portion of the mass member (124) is fixed to the top end of the non-rotary section (125). See Figs. 1 and 5.

In re claim 4 the mass (124) appears to be a plate-like member and is symmetrical about the center of gravity. See Figs. 1 and 5.

In re claim 12 see column 1, lines 5-6.

4. Claims 1-4, 9 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Hisa.

In re claims 1 and 9 Hisa discloses an optical scanner comprising a rotary deflector having a driving motor. The driving motor includes a non-rotary section (24) located at the center of rotation of the driving motor and a rotary section (28) for rotating a polygon mirror (34). The deflector further includes a mass member (54) having a center portion fixed to the top end of the

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non-rotary section (24), wherein a periphery of the mass member (54) is larger than that of the non-rotary section (24). See Fig. 1.

In re claim 2 the non-rotary section (24) has been taken as a stationary shaft.

In re claim 3 this feature is inherently disclosed because, as stated above, the center portion of the mass member (54) is fixed to the top end of the non-rotary section (24). See Fig. 1.

In re claim 4 the mass (54) appears to be a plate-like member and is symmetrical about the center of gravity. See Fig. 1.

In re claim 12 see column 1, lines 5-10.

### *Conclusion*

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CAR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CAR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

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will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Phan whose telephone number is (703) 308-4810. The examiner can normally be reached on Sunday (first Sunday of the biweek) from 8:30 AM to 9:00 PM, Monday from 8:30 AM to 12:00 PM, Tuesday - Friday from 8:30 AM to 2:30 PM, and Saturday (second Saturday of the biweek) from 8:30 AM to 9:00 PM.

The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Phan, J.

Oct. 30, 2002

  
James Phan  
Primary Examiner